

STATE OF ILLINOIS
SECRETARY OF STATE
SECURITIES DEPARTMENT

IN THE MATTER OF: Gerard Robert Celmer) No. 0100756

Final Order

TO THE RESPONDENT: Gerard Robert Celmer (CRD 1779511)
101 West End Ave.
Summit, NJ 07901

WHEREAS, the record of the above-captioned matter has been reviewed by the Secretary of State or his duly authorized representative;

WHEREAS, the rulings of the Hearing Officer on the admission of evidence and all motions are deemed to be proper and are hereby concurred with by the Secretary of State;

WHEREAS, the proposed Findings of Facts and Conclusions of Law and Recommendation of the Hearing officer, John K. Ellis, in the above-captioned matter have been read and examined; and

WHEREAS, the proposed Findings of Fact are correct and are adopted by the Secretary of State as follows:

1. The evidence, exhibits and testimony have been offered and received from all parties and a proper record of all proceedings has been made and preserved as required.
2. The Hearing Officer has ruled on all motions and objections timely made and submitted.
3. The Hearing Officer and the Secretary of State Securities Department have jurisdiction over the parties herein and the subject matter dealt with herein, due and proper notice having been previously given as required by statute in this case.
4. As no answer, special appearance or other responsive pleading was filed, the Respondent is therefore deemed to be in default.
5. That from November 13, 1998, through April 4, 2001, the Respondent was registered as a salesperson for Mason

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Hill & Co., Inc. (a now defunct securities brokerage firm but during this time period was registered as a securities Dealer in the State of Illinois) pursuant to Section 8 of the Illinois Securities Law 815 ILCS 5/1 et seq. (the "Act").

6. That the Respondent's securities salesperson registration in Illinois was withdrawn on or about November 12, 2002.
7. That the Respondent was the registered representative and salesperson for JK an Illinois resident with a securities brokerage account maintained at Mason Hill & Co., Inc. during the relevant time period.
8. During the period of December 1, 1999 through December 31, 2000, the Respondent executed, or caused to be executed, 15 purchases and sales of securities which were excessive in size and frequency and were done for the purpose of generating commissions for the account of JK.
9. The above-referenced transactions were unauthorized.
10. During the relevant time period, \$58,116.73 in securities purchases were made for JK's account and JK's account had an average monthly portfolio equity of \$11,893.44 resulting in an Account Turnover Ratio of 4.89.
11. During the relevant time period, \$4,342.30 in commissions were charged to JK resulting in a Break Even Rate of 37%
12. That on December 12, 2002, the Respondent in the Supreme Court of the State of New York, County of New York plead guilty to and was convicted of 1 count of a violation of the General Business Law Section 352-c(1)(a), a misdemeanor of which fraud is an essential element.
13. Rule 130.850 of the Rules and Regulations under the Illinois Securities Law of 1953, 14 Admin Code 130.100 et seq. ("the Rules") provides, inter alia, that no dealer or salesperson shall effect transactions for any customer's account which are excessive in size or frequency or unsuitable in view of the financial resources of the customer.
14. Section 8.E.1(a) of the Act provides, inter alia, that subject to the provisions of subsection F of Section 11

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of the Act, the registration of a salesperson may be suspended or revoked if the Secretary of State finds that the salesperson has been convicted of any felony during the 10 year period preceding the date of filing of any application for registration or at any time thereafter, or of any misdemeanor of which fraud is an essential element.

15. Section 8.E.1(b) of the Act provides, inter alia, that subject to the provisions of subsection F of Section 11 of the Act, the registration of a salesperson may be suspended or revoked if the Secretary of State finds that the salesperson has engaged in any unethical practice in the offer or sale of securities or in any fraudulent business practice.
16. That by virtue of the foregoing, the Respondent effected transactions for an Illinois resident customer account which were unauthorized, excessive in size and frequency and were unethical practices in the offer or sale of securities or fraudulent business practices.
17. Section 8.E.3 of the Act provides, inter alia, that if no proceeding is pending or instituted and withdrawal automatically becomes effective, the Secretary of State may nevertheless institute a revocation or suspension proceeding within 2 years after withdrawal became effective and enter a revocation or suspension order as of the last date on which registration was effective.
18. Section 12.F of the Act provides, inter alia, that it shall be a violation of the Act for any person to engage in any transaction, practice or course of business in connection with the sale or purchase of securities which works or tends to work a fraud or deceit upon the purchaser or seller thereof.
19. That by virtue of the foregoing the Respondent effected transactions for an Illinois resident customer account which were unauthorized, excessive in size and frequency and worked or tended to work a fraud or deceit upon the Illinois resident customer.
20. Section 11.E(2) of the Act provides, inter alia, that if the Secretary of State shall find that any person has violated subsection F of Section 12 of the Act, the Secretary of State may by written order prohibit the person from offering or selling any securities in this State.

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21. Section 11.E(4) of the Act provides, inter alia, that if the Secretary of State, after finding that any provision of the Act has been violated, may impose a fine as provided by rule, regulation or order not to exceed \$10,000.00 for each violation of the Act.
22. By virtue of the foregoing, the Respondent is subject to the entry of an Order which revokes his salesperson registration in the State of Illinois pursuant to the authority provided under Sections 8.E.1(a) and (b) of the Act.
23. By virtue of the foregoing, the Respondent is subject to a fine of up to \$ 10,000.00 per violation and an order which permanently prohibits the Respondent from offering or selling securities in the State of Illinois.
24. The entry of a Final Order of Revocation and Permanent Prohibition and a Fine up to \$10,000 per violation is proper in this Matter, given the conduct of the Respondent as described in Secretary of State Exhibits 1-10 and the testimony of the Department's Investigator, as well as the fact that said Respondent failed to appear at the hearing and properly answer the Notice of Hearing.

WHEREAS, the proposed Conclusions of Law are correct and are adopted by the Secretary of State as follows:

1. After proper notification, the Complainant may proceed with a hearing in the Respondent's absence. (735 ILCS 5/1-105 and 5/2-1301; Ryan v. Bening, 1978, 22 Ill. Dec. 873, 66 Ill. App.3d 127, 383 N.E.2d 681; Koenig v. Nardullo, 1968, 99 Ill. App. 480, 241 N.E.2d 567) Significantly, the Notice of Hearing outlines that a default judgment may be entered against a Respondent who fails to appear or answer the charge(s).
2. That the conviction of the Respondent on December 12, 2002 as detailed and documented in the Department's exhibits 6 and 7 is a violation of Section 8.E of the Act.
3. That by virtue of the foregoing, the Respondent is subject to an Order Revocation and Permanent Order of Prohibition in the State of Illinois and a fine of up to \$10,000 for each violation of the Act, and/or

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granting such other relief as may be authorized under the Act.

4. Because of the Findings of this Order, the documents admitted as Secretary of State Exhibits Numbers 1-10, the testimony, the Indictment and the Judgment of conviction against the Respondent on December 12, 2002 in the Supreme Court of New York admitted as Secretary of State Exhibits 6 and 7, as well as the fact that the Respondent failed to answer the charges or appear at the hearing, the entry of a written Order of Revocation pursuant to Section 8.E(1) of the Act which revokes the registration of the Respondent as a salesperson of securities in the State of Illinois, an Order of Prohibition pursuant to 815 ILCS 5/11.E(2) which permanently prohibits the offer or sale of securities by the Respondents in the State of Illinois, and an order of public censure and a fine up to \$10,000.00 per violation pursuant to 815 ILCS 5/11.E(4), is proper in this matter.

WHEREAS, the proposed Recommendations of the Hearing Officer are adopted by the Secretary of State.

NOW THEREFORE IT IS HEREBY ORDERED: That pursuant to the foregoing Findings of Fact, Conclusions of Law, and the Recommendations of the Hearing Officer, (1) the Respondent's, Gerard Robert Celmer, salesperson registration is revoked as of the last date on which such registration was effective; and (2) Respondent, Gerard Robert Celmer, is permanently prohibited from offering or selling securities in the State of Illinois and Respondent, Gerard Robert Celmer, is ordered to pay a fine of \$10,000 payable by certified check or money order within 30 (thirty) days from the date of entry of this order.

Dated this 29th day of October, 2004.



JESSE WHITE
Secretary of State
State of Illinois

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NOTICE: Failure to comply with the terms of this Order shall be a violation of Section 12.D of the Illinois Securities Law of 1953, as amended, 815 ILCS 5/1 et seq. (the "Act"). Any person or entity who fails to comply with the terms of this Order of the Secretary of State, having knowledge of the existence of this Order, shall be guilty of a Class 4 felony.

This is a final order subject to administrative review pursuant to the Administrative Review Law, 735 ILCS 5/3-101 et seq. and the Rules and Regulations of the Act (14 Ill. Admin. Code, Ch. I, Sec. 130.1123). Any action for judicial review must be commenced within thirty-five (35) days from the date a copy of this Order is served upon the party seeking review.

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Hearing Officer:
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